

DC TUITION ASSISTANCE GRANT PROGRAM OFFICE

NOTICE OF FINAL RULEMAKING

The Director of the DC Tuition Assistance Program Office (“Director”), pursuant to the authority granted by §§ 3(f)(2) and 5(e)(2) of the District of Columbia College Access Act (“College Access Act”), approved November 12, 1999, Pub. L. 106-98, 113 Stat.1323 and Mayor’s Order 2000-138, dated September 7, 2000, hereby gives notice of the adoption of the following rules, which establish policies and procedures for the administration of the College Access Act. The College Access Act establishes a program that enables college-bound students who are domiciled in the District of Columbia to have greater choices among institutions of higher education. The program will provide tuition assistance to eligible students who attend eligible institutions. Final action was taken on May 21, 2001 to adopt these rules. No comments were received and no changes were made to the text of the proposed rules as published in the Notice of Emergency and Proposed Rulemaking (47 DCR 9749; December 8, 2000). These final rules will become effective upon publication of this notice in the DC Register.

Title 29 DCMR, Public Welfare, is amended by adding the following Chapter 70:

Chapter 70 DC Tuition Assistance Grant Program

7000 Application Process and Eligibility Criteria

- 7000.1 Students who wish to apply for the tuition assistance provided by the District of Columbia College Access Act of 1999 (“College Access Act”), approved November 12, 1999, Pub. L. 106-98, 113 Stat. 1323, (hereafter called the “DC Tuition Assistance Grant Program”), shall submit an application, on a form prescribed by the Mayor.
- 7000.2 An applicant is eligible for tuition assistance under the College Access Act if he or she:
- (a) was domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;
 - (b) graduated from a secondary school or received the recognized equivalent of a secondary school diploma on or after January 1, 1998;
 - (c) begins his or her undergraduate course of study within the three

calendar years (excluding any period of service on active duty in the Armed Forces, or service under the Peace Corps Act (22 U.S.C. 2501 *et seq.*) or subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 *et seq.*)) of graduation from a secondary school, or obtaining the recognized equivalent of a secondary school diploma, whichever is earlier;

- (d) is enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution;
- (e) if enrolled in an eligible institution, is maintaining satisfactory academic progress in the course of study the student is pursuing in accordance with section 484(c) of the Higher Education Act of 1965, as amended (20 U.S.C. 1091(c)) and the regulations promulgated under its authority (34 CFR § 668.32(f));
- (f) has not completed his or her first undergraduate baccalaureate course of study;
- (g) continues to be domiciled in the District of Columbia throughout his/her undergraduate education;
- (h) does not owe money back on a grant previously received under Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. § 1070 *et seq.*) or has made satisfactory arrangements to repay it, and is not in default on any loan made or guaranteed under this title or has made satisfactory arrangements to repay it;
- (i) has registered with the Selective Service if required to register with the Selective Service;
- (j) for the second and subsequent applications for tuition assistance, has not had more than a three year break in enrollment at an eligible institution; and
- (k) is not incarcerated.

7000.3 The applicant shall submit with the application form the following:

- (a) with the first application for tuition assistance:
 - (1) the evidence described in section 7003 of this Chapter that,

in the reasonable judgment of the Mayor, is sufficient to establish that the applicant is domiciled in the District of Columbia at the time the applicant submits his or her application, and was (or will be) domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education; and

(2) a photocopy of the applicant's social security card.

(b) with the second and subsequent applications for tuition assistance, the evidence described in section 7003 of this Chapter that, in the reasonable judgment of the Mayor, is sufficient to establish that the applicant has not abandoned the District of Columbia as his or her domicile since the applicant last received tuition assistance under this Chapter.

7000.4 The applicant shall submit the application form and other records, documents, or information required by subsection 7000.3 or 7003 to the Mayor after January 1st of the year preceding the award year the student will attend college. The application must be received by the Mayor no later than the student's last day of enrollment at the institution or June 30th (whichever comes first) of the award year for which the applicant is applying for tuition assistance.

7001 Domicile - General

7001.1 For the purposes of this chapter, the term "domicile" means the present fixed place of residence of an individual to which he or she returns following temporary absences and at which he or she intends to reside indefinitely.

7001.2 No person may have more than one domicile simultaneously.

7001.3 Domicile cannot be established initially in the District of Columbia unless:

(a) one actually resides, in the sense of being physically present, in the District of Columbia; coupled with

(b) a present intent to reside indefinitely in the District; and

7001.4 Once domicile is established in the District of Columbia, actual residence in the District is not required.

7001.5 Once a domicile has been established, a person retains that domicile unless the evidence affirmatively shows that the domicile has been abandoned.

7002 Domicile - Determining the Person Through Whom Domicile is Established

7002.1 The domicile of an applicant who is an un-emancipated minor is the domicile of the minor's parents or legal guardian.

7002.2 If the parents of an unemancipated minor are legally separated by court order or divorced, the domicile of the unemancipated minor may be any one of the following that places the minor's domicile in the District of Columbia:

- (a) the domicile of the parent with whom the minor resides more than 50% of the time;
- (b) the domicile of the parent who claims the minor as a dependent for federal and District of Columbia income tax purposes;
- (c) if neither parent claims the minor as a dependent for federal and District of Columbia income tax purposes, the domicile of the parent who provides substantial financial support; or
- (d) if the parents have joint custody of the minor by court order, the domicile of the minor may be the domicile of either parent.

7002.3 If the parents have different domiciles, but have not been divorced or legally separated by court order, the unemancipated minor may claim the domicile of the parent, if any, who is domiciled in the District of Columbia.

7002.4 An applicant 18 years of age or older is presumed to have the domicile of the parent or legal guardian listing the applicant as a dependent in the State income tax return of the parent or legal guardian or providing substantial financial support to the applicant. The applicant may seek to rebut this presumption by showing, by a preponderance of the evidence, a domicile independent of such parent or legal guardian regardless of financial dependency.

7002.5 The domicile of an independent applicant or an emancipated minor is determined by considering whether the independent applicant or emancipated minor has established the District of Columbia as his or her domicile.

- 7002.6 The domicile of an applicant is the District of Columbia where the applicant is under the jurisdiction of the Superior Court of the District of Columbia pursuant to Chapter 23 of Title 16 of the District of Columbia Code or where a written statement of relinquishment of parental rights is filed in the Superior Court of the District of Columbia pursuant to DC Code § 32-1007 (1998 Repl.).
- 7002.7 For situations other than those described above in this section, which involve unusual or special circumstances (*e.g.*, an unemancipated minor has been abandoned by his or her parents and another person exercises parental responsibilities on behalf of the applicant), the Grant Program Office may determine on a case-by-case basis the person through whom domicile may be established based on the particular facts and any relevant legal requirements regarding the establishment of domicile.
- 7003 Domicile - Criteria and Proof**
- 7003.1 The following criteria will be considered in determining the domicile of the applicant or the person through whom the applicant's domicile is established:
- (a) the place of residence;
 - (b) the jurisdiction to which state or local income taxes are filed or paid;
 - (c) the jurisdiction in which the driver's license or non-driver's identification is issued;
 - (d) the jurisdiction in which the person's motor vehicle is registered;
 - (e) the jurisdiction in which the person is registered to vote;
 - (f) the jurisdiction in which the person owns residential real property;
 - (g) the jurisdiction from which the person receives public financial support; and
 - (h) any other relevant criteria that reveals an intent to establish a particular jurisdiction as the person's domicile.
- 7003.2 With the applicant's first application for tuition assistance under this Chapter, the applicant shall submit sufficient evidence to establish that the District of Columbia has been the domicile of the applicant, or the person through whom the domicile of the applicant is determined, for not less

than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education. For example, the applicant may submit any of the following as evidence of this requirement:

- (a) copies of a valid, unexpired lease covering the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;
- (b) copies of utility bills for utility services provided in the District of Columbia covering the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;
- (c) copies of earnings and leave statements (i.e., pay stubs) that shows residency in the District of Columbia and the withholding of District of Columbia income tax covering the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;
- (d) copies of documents showing the receipt of financial assistance from the District of Columbia government including financial assistance for housing or Temporary Assistance for Needy Families covering the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;
- (e) certified copies of District of Columbia income tax returns;
- (f) copies of voter registration, motor vehicle registration, driver's license, or non-driver's identification;
- (g) a copy of a deed to residential real property located in the District of Columbia; and
- (h) copies of any other documents that demonstrate that the District is the domicile of the applicant or the person through whom the domicile of the applicant is determined.

7003.3

With the applicant's second and subsequent applications for tuition assistance under this Chapter, the applicant shall submit sufficient evidence to establish that the applicant, or the person through whom the domicile of the applicant is established, has not abandoned the District of Columbia as the domicile since the applicant last received tuition

assistance under this Chapter. The applicant may submit the type of evidence described in § 7003.2(a) through (h) above as proof of domicile.

- 7003.4 The Mayor may require the applicant, or request any other District agency, to submit any additional documents, records, or information that may be relevant in determining the domicile of the student or in determining whether the applicant meets any of the other eligibility criteria set forth in section 7000.2.

7004 Eligibility Determination

- 7004.1 Based on the application and any other records, documents, and information provided to the Mayor, an employee designated by the Director of the District of Columbia Tuition Assistance Grant Program Office (“Grant Program Office”) shall determine whether the applicant, in the reasonable judgment of the employee, is eligible to receive the tuition assistance provided by this Chapter.
- 7004.2 The Grant Program Office shall send a written notification to the applicant informing him or her of their eligibility to receive tuition assistance. The Letter of Eligibility (“LOE”) informing the applicant that he or she is eligible to receive tuition assistance shall be mailed by regular mail, and the letter informing the applicant that he or she is ineligible to receive tuition assistance shall be mailed by certified mail. In addition, if the student is determined to be eligible for the tuition assistance, the Grant Program Office will so inform the institution(s) listed on the student’s application as schools the student is most likely to attend by providing a list of eligible students to the institution or by posting this list of eligible students on an official Website for the DC Tuition Assistance Program.
- 7004.3 The applicant shall provide a copy of the LOE to the financial aid office of the public or private eligible institution to which the applicant is enrolled or intends to enroll in order for the applicant to receive the tuition assistance.
- 7004.4 If the Grant Program Office determines that the applicant is not eligible for tuition assistance, the applicant shall be informed of the reasons for this determination in the letter sent under subsection 7004.2.

7005 Appeal of Ineligibility Determination

- 7005.1 The applicant may submit a notice of appeal of the ineligibility determination, and any additional documents, records and information that the applicant wishes to have considered, to the Mayor.

- 7005.2 The notice of appeal, and any additional documents, records and information that the applicant wishes to have considered, shall be submitted within 30 calendar days of receiving the letter described in subsection 7004.2.
- 7005.3 After considering the notice of appeal and any additional documents, records and information submitted by the applicant, the Mayor shall determine whether, in his or her reasonable judgment, to affirm or reverse the determination that the applicant is not eligible for the tuition assistance.
- 7005.4 The Mayor shall inform the applicant in writing of the determination made under subsection 7005.3. This determination is final and shall not be subject to further administrative review.
- 7006 Requirements for Institutional Participation - Program Participation Agreement.**
- 7006.1 This section and sections 7007 through 7012 establish the standards and requirements with which an eligible institution shall comply in order to participate in the D.C. Tuition Assistance Grant Program.
- 7006.2 A public or private eligible institution may participate in the program only if the institution enters into a written program participation agreement (“PPA”) approved by the Mayor. The PPA shall require the institution to comply with the provisions of this Chapter and any additional conditions specified in the PPA.
- 7006.3 The PPA applies to each location of the institution that meets the applicable requirements of this Chapter unless otherwise specified by the Mayor.
- 7006.4 By entering into a PPA, the institution agrees that:
- (a) it shall comply with all statutory provisions of, or applicable to, the DC Tuition Assistance Grant Program, all applicable regulatory provisions prescribed under that statutory authority, and all provisions of the PPA;
 - (b) it shall use any funds it receives under the College Access Act and any interest or other earnings thereon, solely for the purpose specified and in accordance with the College Access Act;

- (c) it shall not request from or charge any student a fee for processing or handling any application, form, or data required to determine a student's eligibility for, and amount of, program assistance;
- (d) it shall establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Mayor under the College Access Act, together with assurances that the institution shall provide to the Mayor, upon request and in a timely manner, information relating to the administration of the funds;
- (e) it shall submit reports to the Mayor at such time and containing such information as the Mayor may reasonably require to carry out the purpose of the College Access Act. Normally, requests for such information and reports shall be limited to no more than once annually;
- (f) the Mayor, the Secretary, and State agencies that legally authorize institutions to provide postsecondary education, have the authority to share with each other any information pertaining to the institution's eligibility for or participation in the College Access Act or any information on fraud and abuse;
- (g) it shall not impose any penalty, including, but not limited to, the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement the student borrow additional funds for which interest or other charges are assessed, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the funds under the College Access Act due to statutory and regulatory requirements of or applicable to the College Access Act or delays attributable to the institution;
- (h) it shall comply with the institution's tuition refund policy if the student is entitled to a refund and return the funds to the DC Tuition Assistance Grant Program;
- (i) it shall be liable for all funds improperly administered by the institution under the College Access Act, this Chapter or the PPA, including any funds administered by its third-party servicer; and
- (j) it shall have information about the program, including the application, available in paper or electronic format for interested parties.

- 7006.5 The PPA shall:
- (a) become effective on the date that the Mayor signs the agreement;
 - (b) supersede any prior PPA between the Mayor and the institution;
and
 - (c) automatically terminate if the institution is no longer certified as an eligible institution under Title IV of the Higher Education Act of 1965.
- 7006.6 The institution may terminate the PPA by providing a written notice of termination to the Mayor. The termination may not become effective until the end of the award year in which the notice is provided to the Mayor.
- 5906.7 The Mayor may propose to terminate the PPA for cause by providing a notice of proposed termination to the institution. For the purposes of this subsection, “cause” means the failure of the institution or its third-party servicer to comply with any of the requirements of the College Access Act, this Chapter, and/or the PPA.
- 7006.8 The institution may respond in writing to the proposed notice provided under subsection 7006.7 within ten business days after receiving the proposed notice.
- 7006.9 After consideration of any written response submitted by the institution, the Mayor shall determine whether to issue a final notice of termination of the PPA and the effective date of the termination. If the Mayor issues a final notice of termination, this determination is final and shall not be subject to further administrative review.
- 7006.10 If the institution’s PPA is terminated under either subsections 7006.5(c), 7006.6 or 7006.9, the institution shall:
- (a) submit to the Mayor within 45 days after the effective date of the termination of the PPA a letter of engagement for an independent audit of all funds that the institution received under the D.C. Tuition Assistance Grant Program, the report of which shall be submitted to the Mayor within 45 days after the date of the engagement letter;
 - (b) inform the Mayor of the arrangements that the institution has made for the proper retention and storage for a minimum of three years of all records concerning the administration of the grant program;
and

- (c) continue to return funds according to the institution's tuition refund policy.

7007 Requirements for Institutional Participation - Notification of Student Eligibility

- 7007.1 The institution shall accept from the student or the Mayor the LOE as formal notification that the Mayor has determined that the student is eligible to receive the tuition assistance provided by the College Access Act based upon the information submitted with the student's application. The institution may also receive from the Mayor other written notification of the student's eligibility.
- 7007.2 If the institution becomes aware of any information that raises any question regarding the student's eligibility under the criteria contained in subsection 7000.2, the institution shall notify the Mayor and refrain from requesting payment and/or withhold payment to the student's account until given approval to disburse by the Mayor.

7008 Requirements for Institutional Participation- Determination of Grant Amount

- 7008.1 The institution shall determine the amount of the annual grant award for each student in accordance with the requirements of this section.
- 7008.2 The amount of tuition assistance that will be provided to each eligible student enrolled in a public eligible institution shall be no more than the difference between the tuition and fees charged for in-State students and the tuition and fees charged for out-of-State students.
- 7008.3 If the public eligible institution has an in-County rate in addition to an in-State rate, the in-County rate, and not the in-State rate, will be used in making the calculation under subsection 7008.2.
- 7008.4 For enrollment at public eligible institutions, the maximum amount of assistance that an eligible student may receive is not more than \$10,000 for any unpaid tuition or fees for any one award year (as defined in section 481 of the Higher Education Act of 1965, as amended (20 U.S.C. § 1088)), and a lifetime total of not more than \$50,000.
- 7008.5 Students enrolled in a public eligible institution may receive the difference between in-State and out-of-State tuition and fees each payment period they are enrolled as long as they do not exceed the award year maximum of \$10,000.

- 7008.6 The amount of tuition assistance that will be provided to each eligible student enrolled full-time in a private non profit eligible institution shall be not more than \$2,500 for any unpaid tuition or fees in one award year and a lifetime total of not more than \$12,500.
- 7008.7 For any payment period, the award shall be prorated for students attending private institutions and enrolled less than full time (less than 12 credit hours in a term or 24 clock hours per week) in the following manner:
- (a) Students enrolled $\frac{3}{4}$ time (9 credit hours in a term or 18 clock hours per week) shall be eligible for $\frac{3}{4}$ of the calculated full-time award for the payment period; and
 - (b) Students enrolled half time (6 credit hours in a term or 12 clock hours per week) shall be eligible for $\frac{1}{2}$ of the calculated full-time award for the payment period.
- 7008.8 Students who attend an eligible institution on less than a half-time basis are not eligible for the grant.
- 7008.9 If the school's academic calendar contains nonstandard terms, i.e., terms other than semesters, trimesters, or quarters, the school shall determine the student's enrollment status for each nonstandard term in accordance with the calculation found in 34 CFR § 690.63(d)(1)(ii)(1999), as may be amended from time to time.
- 7008.10 The annual award shall not result in the student receiving financial assistance for tuition and fees that exceeds the student's cost for tuition and fees.
- 7008.11 The tuition assistance provided under this Chapter shall apply only to tuition and fees –
- (a) except as provided in subsection 7008.11(b), the institution shall presume that any tuition assistance grant funds disbursed to the student's account shall be used to pay the student's tuition and fees regardless of whether the institution credits those funds directly to the student's tuition and fees; and
 - (b) the institution shall not presume that the tuition assistance grant funds were used to pay tuition and fees to the extent that those charges were satisfied for a payment period by other assistance such as grants, scholarships, tuition or fee waivers, or tuition remission that could only be used for tuition and fees. If the tuition

and fees are satisfied by this other assistance, the student shall not receive a grant for that payment period.

7008.12 The institution shall ensure that the amount of the annual award to an eligible student under this chapter supplements, and does not supplant, the amount of grant aid that would otherwise be provided to the student.

7008.13 If adding aid under this Chapter would make the student's total aid package exceed the cost of tuition and fees, the institution shall use the funds under this Chapter to reduce the student's (federal and nonfederal) loans and work-study only to the extent that the loans and work-study would be used to pay for tuition and fees.

7009 Requirements for Institutional Participation - Grant Payment When Student Attends More Than One Institution

7009.1 During any award year, a student who is enrolled at least half-time in a program leading to a recognized educational credential at an eligible institution ("first institution") may receive the grant for courses taken at a second institution (eligible or non-eligible institution) if:

- (a) the student remains enrolled as a regular student at the first eligible institution during his or her study at the second institution;
- (b) the courses taken at the second institution apply toward the recognized educational credential at the first eligible institution; and
- (c) the first eligible institution and the second institution have a written agreement that provides for the first eligible institution to determine the grant amount for the tuition and fees at both institutions and request payment on behalf of the student.

7009.2 The eligible institution that requests the grant payment on behalf of the student in accordance with the agreement entered into under subsection 7009.1(c) shall take into account all courses taken by the student at each institution participating in the agreement and which apply to the recognized educational credential when determining the student's enrollment status and amount of grant, and maintain all records regarding the student's eligibility for and receipt of the grant.

7009.3 If a student who receives a grant at one eligible institution subsequently transfers to a second eligible institution in the award year, the student may receive tuition assistance at the second institution only if the second institution complies with the requirements contained in section 7007.

- 7009.4 The second institution may receive a grant on behalf of the student under subsection 7009.3 only for that portion of the award year in which the student is enrolled at that institution.
- 7009.5 The second institution shall request payment for the student in accordance with section 7010 of this chapter.
- 7009.6 The Mayor shall be responsible for calculating and/or tracking a student's maximum annual and lifetime award amounts and adjusting them, as appropriate, to address transfers between types of schools (public to private or private to public).
- 7009.7 Each time a student transfers from one type of eligible institution to another type of eligible institution (public to private nonprofit or private nonprofit to public) the Mayor's office will adjust the amount of the total lifetime award received to date to reflect the amount the student would have received if all awards had been received at the second type of institution. The new total lifetime award to date will be calculated by:
- (a) Dividing the total grant amount the student has received at the eligible institution from which the student is transferring by the maximum lifetime amount of grant award the student could receive while attending that type of institution (public - \$50,000 or private non-profit - \$12,500); and
 - (b) Multiplying the percentage obtained under (a) above by the lifetime maximum at the type of institution to which the student is transferring to determine the student's new total award received to date.
- 7010 Requirements for Institutional Participation - Cash Management and Accounting**
- 7010.1 Each payment period, the Mayor shall provide the institution a roster of eligible students who have expressed an interest in attending the institution.
- 7010.2 Each payment period, the institution shall submit to the Mayor a roster of eligible students for payment:
- (a) the roster shall contain the institution's Tax Information Number (TIN) and the Dun and Bradstreet Number (DUN);
 - (b) the roster shall also contain the social security number, name, and permanent address of each eligible student enrolled at the institution, his or her enrollment status, the amount of tuition

specific aid (grant money, scholarship, tuition or fee waivers, or tuition remission) the student received, the amount of tuition and fees charged the student for the payment period, the amount of tuition and fees that would be charged to an in-State student (if a public institution) for that payment period; the award amount that should be paid to the institution on behalf of the student for that payment period;

- 7010.3 A private institution shall determine the amount to request for each payment period by dividing the total amount of the annual award by the number of payment periods the institution expects the student will attend in that award year.
- 7010.4 The institution shall submit the roster to the Mayor after the institution's drop/add period in order to account for the most accurate information with respect to the student's enrollment status.
- 7010.5 If the student registers for an additional course after the institution has submitted its roster to the Mayor for payment, the institution may submit a supplemental roster for payment, except that the amount of payment requested may not result in the institution receiving on behalf of the student more money than is authorized under the College Access Act and this Chapter for the award year.
- 7010.6 Upon receipt of the institutional roster, the Mayor shall review the information on the roster to determine that each student listed as eligible for the grant has filed an application for the grant and is eligible to receive the grant.
- 7010.7 If the Mayor determines that a student on the roster has not submitted the appropriate documents and/or is not eligible for a grant, the Mayor shall notify the institution.
- 7010.8 The Mayor shall determine the aggregate amount of funds to be paid to the institution on behalf of all eligible students attending the institution.
- 7010.9 The Mayor shall transmit funds to the institution's account by use of the Automated Clearing House /Electronic Funds Transfer (ACH/EFT) or check within 30 days of receipt of the roster for payment of funds from the institution.
- 7010.10 The Mayor shall provide to the institution a roster reflecting the names, social security numbers, and amounts of payment for each student transmitted to the institution's account.

- 7010.11 The Mayor may require the institution to maintain the tuition assistance program funds in a separate bank or investment account that contains no other funds if the Mayor determines that the institution failed to comply with:
- (a) the requirements of this section;
 - (b) the record keeping and reporting requirements in subsections 7012.2 through 7012.8; or
 - (c) any other requirements of this Chapter.
- 7010.12 The institution shall maintain accounting and internal control systems that identify the cash balance of the tuition assistance funds that are included in the institution's bank or investment account as readily as if those program funds were maintained in a separate account.
- 7010.13 The institution shall maintain its financial records in accordance with the requirements contained in subsections 7012.2 through 7012.8.
- 7010.14 The institution shall exercise the level of care and diligence required of a fiduciary with regard to administering tuition assistance program funds.
- 7011 Requirements for Institutional Participation - Disbursement and Recovery of Funds**
- 7011.1 The institution shall disburse the grant funds to the student's individual account no later than 30 calendar days after receipt of the funds from the Mayor. For the purposes of this section, a disbursement of grant funds occurs on the date the institution credits the student's individual account at the institution.
- 7011.2 The institution shall disburse the funds on a payment period basis.
- 7011.3 The institution shall notify the student of the date and the amount of the disbursement of grant funds.
- 7011.4 The institution may make a late disbursement to the student's account for a student who becomes ineligible for the grant when:
- (a) the student became ineligible for the grant solely because the student is no longer enrolled at the institution for the award year;

- (b) the institution did not credit the student's account before the student became ineligible for the grant; and
 - (c) before the student became ineligible for the grant, the institution received the LOE from the student or the Mayor or was informed of the student's eligible for the grant by the Mayor's office for the DC Tuition Assistance Grant Program.
- 7011.5 If the student qualifies for a late disbursement under subsection 7011.4, the institution may use the funds only to pay for the tuition and fees that the institution determines the student incurred for the period in which the student was enrolled and eligible.
- 7011.6 The institution shall make the late disbursement under subsection 7011.4 no later than 90 days after the date that the student becomes ineligible for the grant.
- 7011.7 If, after disbursing the grant funds to the student's account, the student has a credit balance for tuition and fees because the student/parent made a cash payment to cover tuition and fees, the institution shall pay the resulting credit balance to the student or parent, as appropriate, no later than 30 calendar days after the credit balance occurred for that payment period, unless the student/parent has authorized the institution in writing to hold the credit balance to cover future charges.
- 7011.8 If an institution or the Mayor's office determines, as a result of their ongoing reconciliation process, that the institution received more award money on behalf of the student than the student was eligible to receive, the institution shall eliminate the overpayment by:
 - (a) adjusting subsequent award payments in the award year in which the overpayment occurred; or
 - (b) if the institution cannot correct the overpayment under paragraph (a) of this subsection, returning the excess funds to the Mayor within 30 days of the institution's or the Mayor's determination that there has been an overpayment.
- 7011.9 When a recipient of the grant withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution shall apply its institutional refund policy to determine the amount of the grant to be returned to the DC Tuition Assistance Grant Program.

- 7012 Requirements for Institutional Participation - Audits and Records Access and Retention**
- 7012.1 The institution shall comply with the applicable audit requirements contained in Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
- 7012.2 An institution shall establish and maintain, on a current basis, any program records that document its eligibility to participate in the College Access Act, its administration of the College Access Act in accordance with all applicable requirements, and its disbursement and delivery of program funds under the College Access Act.
- 7012.3 An institution shall account for the receipt and expenditure of funds under the Act in accordance with generally accepted accounting principles, and shall establish and maintain on a current basis:
- (a) financial records that reflect each program transaction; and
 - (b) general ledger control accounts and related subsidiary accounts that identify each program transaction and separates those transactions from all other institutional financial activity.
- 7012.4 The records that an institution shall maintain in order to comply with the provisions of this section include but are not limited to:
- (a) a copy of the payment roster sent to the institution;
 - (b) the amount of the student's grant for the award year, the payment period (s), the calculation used to determine the amount of the grant, and the date and amount of each grant disbursement;
 - (c) the amount, date, and basis of the institution's calculation of any refund or overpayment due on behalf of the student;
 - (d) the date of payment of any refund or overpayment to the District;
 - (e) reports and forms used by the institution in its participation in the program and any records needed to verify data that appears in these reports and forms,
 - (f) a copy of any written agreements between the institution and another eligible institution that impact a student's participation in the program; and

- (g) on an award year basis (at the end of the award year), the number of eligible District of Columbia residents receiving the grant and that obtain a recognized educational credential.

- 7012.5 An institution shall maintain required records in a systematically organized manner.
- 7012.6 An institution shall make its records available for review by the Mayor.
- 7012.7 An institution may keep required records in hard copy or in microform, computer file, optical disk, CD-ROM, or other media format, provided the record information is retrievable in a coherent hard copy format or in other formats acceptable to the Mayor.
- 7012.8 An institution shall keep records relating to its administration of the program for three years after the end of the award year for which the grant was awarded.

7099 Definitions

- 7099.1 For purposes of this chapter, the following terms and phrases shall have the meanings ascribed:

Academic year shall have the same meaning as set forth in 34 CFR § 668.2 (1999), as amended from time to time.

Annual award means the maximum amount of grant funds a student may receive during a full academic year for a given enrollment status and includes the cost of tuition and fees.

Award year means the period beginning July 1 and ending June 30 of the following year.

Cost of Attendance means the cost of the student's education expenses including, but not limited to, tuition, fees, books, supplies and student living expenses while he or she is attending college. If the student does not file a FAFSA, COA is assumed to be the average cost of attendance for undergraduate students as determined by the institution.

Emancipated minor means a person under the age of 18 whose parent(s) or legal guardian have surrendered the right to his or her care, custody, and earnings and who no longer claim him or her as a dependent for tax purposes.

Fees means the mandatory charges **imposed** on all undergraduate students as a condition of enrollment toward a degree or certificate. It does not include particular charges that may vary by course or student, such as course-specific lab fees, studio fees or parking fees or fines, or room and board.

Grant means, unless otherwise stated, the funds provided by the D.C. Tuition Assistance Grant Program.

Incarcerated means the applicant is serving a criminal sentence in a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, or other similar correctional institution. An applicant is not considered incarcerated if the applicant is in a halfway house or home detention or is sentenced to serve only weekends.

Independent applicant means an applicant 18 years of age or older whose parents or legal guardian have surrendered the right to his or her care, custody, and earnings, do not claim the student as a dependent on federal or state income tax returns, and have ceased to provide the applicant with substantial financial support. This definition is not the same as the Title IV definition for independent applicant.

Institution of higher education means an educational institution that –

- (a) (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
 - (2) is legally authorized within a State to provide a program of education beyond secondary education;
 - (3) provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
 - (4) is a public or private nonprofit institution; and
 - (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within reasonable time.
- (b) The term “institution of higher education” also includes—
- (1) any school that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1), (2), (4), and (5) of this subsection; and

- (2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Legal guardian means a person who is appointed by court order and who is charged with the care, custody, and responsibility of a person under the age of 18 years.

Mayor means the Mayor of the District of Columbia or his or her designee.

Parent means the applicant's natural or adoptive mother or father.

Payment Period shall have the same meaning as set forth in 34 CFR § 668.4, as amended from time to time.

Period of Enrollment means the academic period established by the institution for which institutional charges are generally assessed (*i.e.*, length of the student's program or academic year).

Private eligible institution means an institution that --

- (a) (1) is a private, nonprofit, associate or baccalaureate degree granting, institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1001(a)), the main campus of which is located --
 - (A) in the District of Columbia;
 - (B) in the city of Alexandria, Falls Church, or Fairfax, or the county of Arlington or Fairfax, in the Commonwealth of Virginia, or a political subdivision of the Commonwealth of Virginia located within any such county; or
 - (C) in the county of Montgomery or Prince George's in the State of Maryland, or a political subdivision of the State of Maryland located within any such county;
- (2) is eligible to participate in the student financial assistance programs under title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*); and
- (3) enters into an agreement with the Mayor containing such conditions as the Mayor may specify, including a requirement that the institution use the funds made available under this section to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia; or

- (b) is a private historically Black college or university (for purposes of this subparagraph such term shall have the meaning given the term “part B institution” in section 322(2) of the Higher Education Act of 1965, as amended (20 U.S.C. 1061(2)), the main campus of which is located in the State of Maryland or the Commonwealth of Virginia.

Public eligible institution means an institution that:

- (a) is a public institution of higher education located --
 - (1) in the State of Maryland or the Commonwealth of Virginia; or
 - (2) outside the States of Maryland or the Commonwealth of Virginia, but only if the Mayor --
 - (A) determines that a significant number of eligible students are experiencing difficulty in gaining admission to any public institution of higher education located in the States of Maryland or the Commonwealth of Virginia because of any preference afforded in-State residents by the institution;
 - (B) consults with the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Secretary of the U.S. Department of Education regarding expanding the public school program under the College Access Act to include such institutions located outside of the State of Maryland or the Commonwealth of Virginia; and
 - (C) takes into consideration the projected cost of the expansion and the potential effect of the expansion on the amount of individual tuition and fee payments made under section 3 of the College Access Act in succeeding years;
- (b) is eligible to participate in the student financial assistance programs under title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*); and
- (c) enters into an agreement with the Mayor containing such conditions as the Mayor may specify, including a requirement that the institution use the funds made available under the College Access Act to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia.

Recognized equivalent of a secondary school diploma means:

- (a) a General Education Development Certificate (GED);
- (b) a State certificate received by a student after the student has passed a State-authorized examination that the State recognizes as the equivalent of a secondary school diploma;
- (c) an academic transcript of student who has successfully completed at least a two-year program that is acceptable for full credit towards a bachelor's degree; or
- (d) for a person who is seeking enrollment in an educational program that leads to at least an associate degree or its equivalent and who has not completed secondary school but who excelled academically in secondary school, documentation that the student excelled academically in secondary school and has met the formalized, written policies of the institution for admitting such students.

Secretary refers to the Secretary of the U.S. Department of Education

State means all states within the United States of America, the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands.

Substantial financial support means that the applicant receives over half of his or her financial support from the applicant's parent(s) or legal guardian.

Third-Party Servicer shall have the same meaning as set forth in 34 CFR § 668.2 (1999), as may be amended from time to time.

Title IV means Title IV of the Higher Education Act of 1965 (20 U.S.C. § 1070 *et seq.*)

Tuition means the charges imposed to attend an eligible institution of higher education as a student.

Unemancipated minor means a person under the age of 18 who is under the legal control of and is financially supported by either of his or her parents or legal guardian.

All persons desiring to comment on this proposed rulemaking should file written comments no later than thirty (30) days after the date of publication of this notice in the *DC Register*. Hand-delivered comments should be delivered, and mailed comments should be post-marked, no later than thirty (30) days after publication of this notice in the *DC Register*. Comments should be delivered or mailed to Laurent Ross, Director, DC Tuition Assistance Grant Program, Room 1040, 441 4th Street, N.W., Washington, DC 20001. Copies of these proposed rules may be obtained at the address stated above.